

Application ser. no. 10/773,068

REMARKS

1. Applicant thanks the Examiner for his remarks and observations, which have greatly assisted Applicant in responding.

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2. **35 U.S.C. § 101**

Claims 11-20 are rejected under 35 U.S.C. § 101 because they are alleged not to fall within any statutory category of patentable subject matter. More particularly, the Examiner alleges that, in the absence of any hardware, the 10 modules of claim 11 constitute functional descriptive material. Applicant amends claim 11 to describe "at least one computer, wherein said plurality of software modules are executed on said at least one computer." Support for the amendment is found at paragraph 0018 of U.S. application publication no. 2005/0177597: "the invention provides a testing methodology executed by a 15 computer." Further support for the amendment is found in Figs. 2 and 3 and the accompanying description, at least at paragraphs 0023 and 0029.

3. **35 U.S.C. § 103**

Claims 1-2, 11-12 and 21-22 are rejected under 35 U.S.C. § 103(a) as 20 being unpatentable over U.S. patent no. 6,529,267 ("Glerum") in view of U.S. patent no. 6,185,701 ("Marullo"). To describe the invention more clearly, claim 1, incorporating subject matter from claims 3, 4 and 6, is amended to describe:

"generating a-list of URLs (Universal Resource Location) using a web crawler;

25 applying a browser test script, wherein said browser test script automatically instructs a first browser program containing said browser software to load and render web pages according to the list of URLs, wherein said browser test script tests said browser software over a plurality of applications at sites contained within the list of URLs;

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detecting one or more errors in rendering of said first browser program using the web pages by comparing a representation of rendering results of the first browser program to a representation of rendering results of a second browser program, wherein a representation of rendering results of a browser program comprises an internal representation of a web page as interpreted by the browser program and wherein one or more errors are detected when the representation of rendering results of the first browser program does not match the representation of rendering results of the second browser program; and

automatically storing information about said one or more errors;
wherein said step of applying a browser test script is performed while said first browser program is under development and prior to distribution."

Because there is no teaching or suggestion in the combination of Glerum and Marullo of "detecting one or more errors in rendering of said first browser program using the web pages by comparing a representation of rendering results of the first browser program to a representation of rendering results of a second browser program, wherein a representation of rendering results of a browser program comprises an internal representation of a web page as interpreted by the browser program and wherein one or more errors are detected when the representation of rendering results of the first browser program does not match the representation of rendering results of the second browser program . . ."

amended claim 1 is deemed to be allowable over the combination. Claims 11 and 21 are amended in similar manner to claim 1, incorporating subject matter from claims 13, 14 and 16 and 23, 24 and 26 respectively. Accordingly, claims 11 and 21 are also deemed allowable over the combination of Glerum and Marullo.

Applicant notes that the Examiner relies on Dutta as teaching or suggesting the subject matter of claims 3, 13, 4, 14, 6 and 16. However as discussed below, there is no teaching or suggestion in Dutta of such subject matter.

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In view of their dependence from allowable parent claims, the dependent claims are deemed in allowable condition without any further consideration of their merits.

Claims 3-6, 13-16, 23-36 and 32 are rejected as being unpatentable over 5 Glerum in view of Merullo and further in view of U.S. patent no. 6,918,066 ("Dutta"). Applicant respectfully disagrees. Applicant first notes that claims 3-6, 13-16 and 23-26 have been cancelled from the application, rendering their rejections moot. Nevertheless, in view of the amendments to the independent claims, Applicant provides the following remarks:

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Claims 3, 13 and 23:

The Examiner relies on Dutta, col. 7, lines 23-25 as teaching "automatically instructing a second browser program to load and render the web pages." Applicant respectfully disagrees. The cited portion of Dutta is directed to 15 browser emulations, rather than browsers. It is well known in the art that a software emulation is a software program that imitates another program. Thus, a browser emulation is not a browser, but a software program that imitates a browser.

Applicant notes the Examiner's Response to Arguments regarding 20 Applicant's argument of April 18, 2007, wherein the Examiner maintains that because Dutta's emulators serve the function of browsers and are programs, they are browser programs. Applicant respectfully disagrees. As Applicant originally argued, a browser emulator is not the browser that it emulates. It is an imitation of the browser that it emulates. Additionally, each of the emulators is 25 not a program. Rather, the emulators are units within Dutta's test program, as described at col. 7, lines 32-35.

Furthermore, the ordinarily-skilled practitioner would not be led to Dutta to derive the subject matter of claim 3 specifically because Dutta teaches the use of browser emulators. The present invention is directed to the testing of browsers. 30 Dutta is directed to testing the effectiveness of web applications. Within Dutta's

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context, because the test is of a web application, or a web page, the use of browser emulators allows the tester to simulate the interaction of the web application or web page and the respective browsers, acquiring an estimate of how the web application will function in real-world use. However, in a test of a browser, the best that the tester could hope for using an emulator to test the browser would be a test of the emulator, rather than the browser. It would not result in a valid test of the browser. Thus, the use of Dutta's emulators would completely defeat the goal of the invention: testing browsers.

Applicant notes that Dutta suggests an alternative approach of using actual browser programs to test a web page's effectiveness. However Dutta also teaches away from this very approach: "This process eliminates the need for the current and laborious method which requires a user to input pages into browsers one-by-one." Col. 7, lines 29-31. Even if Dutta had not taught away from the use of actual browser programs instead of emulations, there is no teaching or suggestion in Dutta of "automatically instructing a second browser program to load and render the web pages." Dutta is completely silent as to how the actual browser programs are to be used in the web application testing process.

The foregoing applies equally to claims 13 and 23. The present rejection is therefore deemed improper.

Claims 4, 14 and 24: The Examiner's Response notwithstanding, the scorecard parameters described represent performance criteria for the web page:

"The next step 62 is to establish the rules to generate a scorecard for evaluating a web site." Col 8, lines 32-33;

"This scorecard will be the criteria on which the web site will be evaluated for effectiveness on the different web browsers chosen by the web designer." Col. 8, lines 33-36; and

"This step also evaluates the web page for each selected browser using the scorecard rules generated in step 62." Col 8, lines 43-44.

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Furthermore, during the evaluation process, "[t]he web designer will have an opportunity to edit the web page if the designer is not satisfied with the web design." Col. 8, lines 52-53.

Applicant still maintains that the cited teachings have nothing to do with errors. What is being described is a scorecard that rates a page's effectiveness according to a plurality of performance criteria. Dutta describes the solution to deficiencies in page effectiveness as redesigning the web page. Thus, it is clear that, even if it were correct that the scorecard is a catalog of errors, the errors are due to design deficiencies of the web page and have nothing to do with browser errors or defects.

The present rejection is therefore improper.

Claims 5, 15 and 25:

Claims 5, 15 and 25 have been cancelled from the application, rendering the present rejection moot.

Claims 6, 16 and 26:

The Examiner relies on Dutta, col. 8, line 65 to col. 9, line 14 as teaching "wherein the representation of rendering results of the first browser program comprises an internal representation of a web page as interpreted by the first browser program." Applicant respectfully disagrees.

As above, the cited portion of Dutta describes a scorecard that rates a page's effectiveness according to a plurality of performance criteria. The cited teaching has nothing to with "an internal representation of a web page as interpreted by the first browser program."

In his Response to Arguments the Examiner alleges that a measure of a page's effectiveness *represents* how a page was scored on the system. Even if this is so, it is still a representation of the page's effectiveness, and not a

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representation of the page itself.

The Examiner further alleges that because the scorecard is generated within Dutta's system, it is an internal representation. There is no indication, however, that the scorecard is internal to a web browser.

5 The Examiner further alleges that the rendering of the page by the browser constitutes "an internal representation of a page" as interpreted by the first browser program. Applicant respectfully disagrees. The subject application clearly distinguishes the rendering of a page from the "internal representation" of the page:

10 "The test controller 304 may directly compare the screen images of the web page rendered by the two browsers A and B 306, 308. However, the exact comparison based on screen images of the two browsers A and B 306, 308 may trigger too many false alarms since the different browsers may both correctly render the same web page in different layouts. In addition, the definitions of the web pages, e.g., the html documents, generally do not completely specify the layout of the document. Thus, different browsers can correctly render the same web page into different images.

20 In one embodiment, both browsers A and B, 306, 308 present an internal representation of the web page from which the screen images are generated to the test controller 304. Thus, the internal representations of the web page can be compared for glitches." U.S patent application publication no. 2005/0177597, paragraphs 0033-0034. Accordingly, it is incorrect that a rendering of a web page constitutes an internal representation of the web page.

The present rejection is therefore improper.

25 Claim 32: Claim 32 is cancelled from the application, rendering the current rejection moot.

Claims 7, 17, and 27 are rejected as being unpatentable over Glerum in view of Marullo and further in view of Dutta and further in view of Castro. In view of the foregoing, the present rejection is deemed overcome. Applicant again

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notes that with respect to claim 6, the Examiner alleges that an "internal representation of a web page" is suggested by Dutta's scorecard, which, as previously discussed, represents an evaluation of a page's effectiveness. The present rejection is inconsistent with that allegation. Here, the Examiner finds that the internal representation (scorecard) comprises "attributes of the web page, including:

- a background color;
- a number of columns of a table; and
- a number of rows of a table."

Claims 8, 18 and 28 are rejected as being unpatentable over Glerum in view of Marullo and further in view of Dutta and further in view of U.S patent no. 6,865,592 ("Shindo"). In view of the foregoing, the present rejection is deemed overcome.

5. 4. The above amendments are made to describe the invention more clearly, in the interest of advancing prosecution of the application. They do not constitute agreement with the Examiner's position, nor do they indicate intention to sacrifice claim scope. Applicant expressly reserves the right to pursue patent protection of a scope it reasonably believes it is entitled to in one or more further submissions to the USPTO.
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5. For the record, Applicant respectfully traverses any and all factual assertions in the file that are not supported by documentary evidence. Such include assertions based on findings of inherency, assertions based on official notice, and any other assertions of what is well known or commonly known in the prior art.
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CONCLUSION

In view of the foregoing, the application is deemed to be in allowable condition. Applicant therefore requests reconsideration and prompt allowance of
5 the claims. Should the Examiner have any questions concerning the Application, he is urged to contact Applicant's attorney at (650) 474-8400.

Respectfully submitted,

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